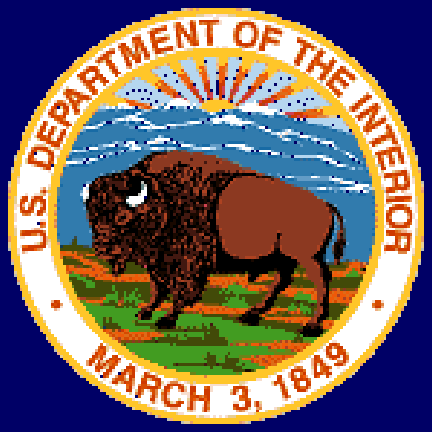

Endangered Species Act Section 7 Overview

Endangered Species Program,

U.S. Fish and Wildlife Service

2001

[illegible]

All Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities to further the purposes of the Act by carrying out their programs for the conservation of endangered and threatened species.

Section 7 Consultation

All Federal agencies shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

[illegible]

Prohibits Federal agencies, while engaged in consultation, from making any irreversible or irretrievable commitments of resources that would foreclose the development and implementation of any reasonable and prudent alternatives needed to avoid jeopardizing listed species or adversely modifying designated critical habitat.

[illegible]

- If it is determined that any aspect of the INRMP **May Affect** an endangered or threatened species or designated critical habitat, the agency shall initiate consultation with the Fish and Wildlife Service (Service) or the National Marine Fisheries Service (NMFS).
  - The Service will not be consulting on species covered by NMFS. Therefore, an INRMP approved by the Service **does not** represent plan approval for NMFS covered species.

[illegible]

- Once it is determined that the INRMP **May Affect** an endangered or threatened species or designated critical habitat, **Informal Consultation** consisting of discussions between the Federal agencies, and the Service and/or NMFS to determine if there are ways to avoid adverse effects to the listed species or habitat begins.

- If, through the informal consultation process, modifications to the INRMP are developed that avoid or eliminates all adverse effects, then consultation is concluded upon the receipt of the **written concurrence** from the Service or NMFS, as appropriate, indicating that the INRMP is **Not Likely to Adversely Affect** listed species or designated critical habitat. The effects of the INRMP must be insignificant, discountable, or beneficial in order to receive such concurrence, and this determination is based on effects to individuals, not the species as a whole.

[illegible]

- If adverse effects of the INRMP prove to be unavoidable, **Formal Consultation** is initiated following the receipt of necessary information regarding the action, listed species and/or critical habitat from the installation developing the INRMP. This information is provided to the Service or NMFS and is referred to as an **Initiation Package**.

[illegible]

- The **Initiation Package** should contain the following six components:
  - A description of the action.
  - A description of the specific area affected by the action.
  - A description of the listed species/critical habitat that may be affected.
  - A description of the manner in which they may be affected.
  - Any relevant reports prepared on the proposal.
  - Other relevant studies or available information.

[illegible]

- Following the review of initiation package provided by the installation, the formal consultation process is initiated and concludes within 90 days. Within 45 days of the conclusion of formal consultation, the Service or NMFS will issue a document called the **Biological Opinion**. Therefore, from the date of initiation to the issuance of a Biological Opinion the formal consultation process takes up to 135 days.

[illegible]

- If the **Biological Opinion** concludes that the action is not likely to jeopardize the species and the action is not likely to adversely modify critical habitat, it will provide an **Incidental Take Statement**, which anticipates the amount of take of any listed wildlife species that may occur incidental to the project. The Statement also includes non-discretionary **Reasonable and Prudent Measures** to be carried out by the Federal agency that will minimize the incidental take. Proper implementation of all reasonable and prudent measures exempts the Federal agency from the prohibitions on take of listed wildlife. For plan level consultations such as INRMP's, the incidental take authorization is often deferred until site specific project-review is complete.

[illegible]

- If the **Biological Opinion** concludes that the proposed action is likely to jeopardize the continued existence of a species (or adversely modify designated critical habitat), it provides **Reasonable and Prudent Alternatives** to the action that will avoid jeopardy. Such alternatives must be consistent with the intended purpose of the action, be within the authority of the Federal agency, and be technologically and economically feasible. If the alternative action may result in incidental take, an incidental take statement will be included.

[illegible]

- A Biological Opinion also includes discretionary **Conservation Recommendations** that guide a Federal agency in using its authorities to further conserve endangered and threatened species.

- An Federal agency may file an appeal to the **Endangered Species Committee** if the proposed action is likely to jeopardize the continued existence of a listed species or adversely modify critical habitat.

[illegible]

Occurs prior to INRMP approval

In review of the proposed INRMP, the service will insure that one of the following conditions is met prior to approval.

- A service field office has received a written statement from the installation commander documenting that the INRMP will **Not Affect** any listed species or designated critical habitat.

OR

[illegible]

- A **Concurrence Letter** has been issued from a Service field office endangered species supervisor stating that the INRMP is **Not Likely to Adversely Affect** any listed species or designated critical habitat.

OR

- A final **Biological Opinion** is issued that states the INRMP is not likely to jeopardize any listed species or adversely modify any designated critical habitat.

  The Service will not approve any INRMP's for which we issue a jeopardy or adverse modification Biological Opinion unless the base commander commits to implementing the Reasonable and Prudent Alternative(s).